



LEGISLATION

Effective July 1, 2005

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LEGISLATION

ETP: A Brief History

In 1982, the California State Legislature created the Employment Training Panel (ETP) as a cooperative business-labor program. It was created in a year of high unemployment and declining resources for employment training and vocational education. ETP was designed to fund training to meet the needs of employers for skilled workers and the need of workers for good, long-term jobs. It was also created out of a recognition of the critical role that retraining can play in mitigating the impact of an economic transition on both workers and employers.

This employer-supported training is used to improve the economic climate by training new workers for full-time employment and by retraining workers in danger of being displaced as a result of a recession, technological advancements in the workplace or aggressive foreign and domestic competition.

The original legislation establishing ETP also established the Employment Training Fund (ETF). Each private, for-profit California employer is required to contribute one-tenth of one percent (0.1%) of the first \$7,000 of wages of each employee subject to unemployment insurance taxation (an annual maximum of \$7.00/employee) to the ETF. At the same time, employer contributions into the Unemployment Insurance Fund were reduced by the same amount paid to the ETF.

The ETP enabling Legislation has been amended numerous times. **Most recently, Senate Bill 102 (Ducheny) was signed into Law by the Governor, adding Section 10214.9 to the Unemployment Insurance (UI) Code, effective January 1, 2006. The ETP legislation is revised accordingly to indicate that when the bill takes effect, the Panel may fund up to 5 licensed nurse training programs to train individuals who (1) are currently working as nurse assistants/caregivers in a health facility; (2) are enrolled in an approved licensed nurse program of at least 1000 hours; and, (3) have completed the first 800 hours of the nurse program. ETP may fund up to 750 training hours remaining in the nurse program.**

An Index is attached

EMPLOYMENT TRAINING PANEL LEGISLATION

(Effective January 1, 2004)

Division 3, Part 1, Chapter 3.5 of the UI Code

10200. The Legislature finds and declares the following:

- (a) California's economy is being challenged by competition from other states and overseas. In order to meet this challenge, California's employers, workers, labor organizations, and government need to invest in a skilled and productive work force, and in developing the skills of frontline workers. For purposes of this section, "frontline worker" means a worker who directly produces or delivers goods or services.

The purpose of this chapter is to establish a strategically designed employment training program to promote a healthy labor market in a growing, competitive economy that shall fund only projects that meet the following criteria:

- (1) Foster job creation of high-wage, high-skilled jobs, or foster retention of high-wage, high-skilled jobs in manufacturing and other industries that are threatened by out-of-state and global competition, including, but not limited to, those industries in which targeted training resources for California's small and medium-sized business suppliers will increase the state's competitiveness to secure federal, private sector, and other non-state funds. Provide for retraining contracts in companies that make a monetary or in-kind contribution to the funded training enhancements.
- (2) Encourage industry-based investment in human resources development that promotes the competitiveness of California industry through productivity and product quality enhancements.
- (3) Result in secure jobs for those who successfully complete training. All training shall be customized to the specific requirements of one or more employers or a discrete industry and shall include general skills that trainees can use in the future.
- (4) Supplement, rather than displace, funds available through existing programs conducted by employers and government-funded training programs, such as the Workforce Investment Act of 1998, the Carl D. Perkins Vocational Education Act, CalWORKS, the Enterprise Zone Act, and the Stewart B. McKinney Homeless Assistance Act, the California Community Colleges Economic Development Program or apportionment funds allocated to the community colleges, regional occupational centers and programs, or other local educational agencies. In addition, it is further the intention of the Legislature that programs developed pursuant to this Chapter shall not

replace, parallel, supplant, compete with, or duplicate in any way already existing approved apprenticeship programs.

- (b) The Employment Training Panel, in funding projects that meet the requirements of subdivision (a), shall give funding priority to those projects that best meet the following goals:
 - (1) Result in the growth of the California economy by stimulating exports from the state, and the production of goods and services that would otherwise be imported from outside the state.
 - (2) Train new employees of firms locating or expanding in the state that provide high-skilled, high-wage jobs and are committed to an ongoing investment in the training of frontline workers.
 - (3) Develop workers with skills that prepare them for the challenges of a high performance workplace of the future.
 - (4) Train workers who have been displaced, have received notification of impending layoff, or are subject to displacement, because of a plant closure, workforce reduction, changes in technology, or significantly increasing levels of international and out-of-state competition.
 - (5) Are jointly developed by business management and worker representatives.
 - (6) Develop career ladders for workers.
 - (7) Promote the retention and expansion of the state's manufacturing workforce.
- (c) The program established through this chapter is to be coordinated with all existing employment training programs and economic development programs, including, but not limited to, programs such as the Workforce Investment Act of 1998, the California Community Colleges, the regional occupational programs, vocational education programs, joint labor-management training programs, and related programs under the Employment Development Department and the Technology, Trade, and Commerce Agency.

10201. As used in this chapter:

- (a) "Department" means the Employment Development Department.
- (b) "Employer" or "eligible employer" means any employer subject to Part 1 (commencing with Section 100) of Division 1, except any public entity, or any nonprofit organization which has elected an alternate method of financing its liability for unemployment insurance compensation benefits pursuant to Article 5 (commencing with Section 801), or Article 6 (commencing with Section 821) of Chapter 3.

Any public entity or nonprofit organization that has elected an alternate method of financing its liability for unemployment insurance compensation benefits pursuant to Article 5 (commencing with Section 801), or Article 6 (commencing with Section 821) of Chapter 3, shall be deemed to be an employer only for purposes of placement of new hire trainees who received training as an incidental part of a training project designed to meet the needs of one or more private sector employers.

- (c) "Eligible participant" means any person who, prior to beginning training or employment pursuant to this chapter, is any of the following:
 - (1) Unemployed and has established an unemployment insurance claim in this state, or has exhausted eligibility for unemployment insurance benefits from this state within the previous 24 months.
 - (2) Employed for a minimum of 90 days by his or her employer, or if employed for less than 90 days, met the conditions of paragraph (1) at the time of hire, had received a notice of layoff from the prior employer, or was employed by an employer for a period of not less than 90 days during the 180-day period prior to the employee's current employment.
- (d) "Executive director" means the executive director appointed pursuant to Section 10202.
- (e) "Fund" means the Employment Training Fund created by Section 1610.
- (f) "Job" means employment on a basis customarily considered full time for the occupation and industry. The employment shall have definite career potential and a substantial likelihood of providing long-term job security. Furthermore, the employment shall provide earnings, upon completion of the employment requirement specified in subdivision (f) of Section 10209, equal to 50 percent, in the case of new hire training, or 60 percent, in the case of retraining, of the state or regional average hourly wage. However, in no case shall the employment result in earnings of less than 45 percent of the state average hourly wage for new hire training and 55 percent of the state average hourly wage for retraining. The panel may consider the dollar value of health benefits that are voluntarily paid for by an employer when computing earnings to meet the minimum wage requirements.
- (g) "New hire training" means employment training, including job-related literacy training, for persons who, at the start of training, are unemployed.
- (h) "Panel" means the Employment Training Panel created by Section 10202.
- (i) "Retraining" means employment related skill and literacy training for persons who are employed and who meet the definition of paragraph (2) of subdivision (c) prior to commencement of training and will continue to be employed by the same employer for at least 90 days following completion of training.

- (j) "State average hourly wage" means the average weekly wage paid by employers to employees covered by unemployment insurance, as reported to the Employment Development Department for the four calendar quarters ending June 30 of the preceding calendar year, divided by 40 hours.
- (k) "Trainee" means an eligible participant.
- (l) "Training agency" means any private training entity or local educational agency.

10201.5 With respect to funding appropriated in the annual Budget Act to the Employment Development Department for allocation by the Employment Training Panel and identified for training of workers in regions suffering from high unemployment and low job creation, including the working poor, the panel, notwithstanding subdivision (f) of Section 10201, may waive the minimum wage requirements included in that subdivision provided that the post-retention wage of each trainee who has completed training and the required training period exceeds his or her wage before and during training. This determination shall be made on a case-by-case basis to ensure that post-training improvements in earnings are sufficient to warrant the investment of public funds.

10202. (a) The Employment Training Panel is established in the Employment Development Department.
- (b) The executive director shall be appointed by the Governor, and shall be well qualified for the position with experience in government. The executive director may perform all duties, exercise all powers, discharge all responsibilities, and administer and enforce all laws, rules, and regulations under the jurisdiction of the panel, with the approval of the panel. The executive director shall administer this chapter, with the approval of the panel, in the manner he or she deems necessary to conduct the work of the panel properly. With the approval of the panel, the executive director may create divisions and subdivisions as necessary, and change and abolish these divisions and subdivisions from time to time.
 - (c) The panel may employ personnel necessary to carry out the purposes of this chapter. All personnel shall be appointed pursuant to the State Civil Service Act (Part 1 (commencing with Section 18000) of Division 5 of Title 2 of the Government Code), except for an executive director, and two assistant directors, who shall be exempt from state civil service.
 - (d) All personnel of the panel shall be appointed, directed, and controlled only by the panel or its authorized deputies or agents to whom it may delegate its powers.
 - (e) The governor shall appoint two assistant directors, to serve at the pleasure of the Governor. The assistant directors shall have the duties as assigned by the executive director, and shall be responsible to the executive director for performance of their duties.

- (f) One assistant director shall have experience in serving the needs of small businesses, and shall, under the supervision of the executive director, manage the panel's efforts to ensure that employment training services are available to small businesses.

10202.5 (a) The panel shall consist of eight persons, seven of whom shall be appointed as provided in subdivision (b), and shall have experience and a demonstrated interest in business management and employment relations. The Secretary of the Trade and Commerce Agency, or his or her designee, shall also serve on the panel as an ex officio, voting member.

- (b) (1) Two members of the panel shall be appointed by the Speaker of the Assembly. One of those members shall be a private sector labor representative and the other member shall be a business representative.
- (2) Two members of the panel shall be appointed by the President pro Tempore of the Senate. One of those members shall be a private sector labor representative and the other member shall be a business representative.
- (3) Three members of the panel shall be appointed by the Governor. One of those members shall be a private sector labor representative, one member shall be a business representative, and one member shall be a public member.
- (4) Labor appointments shall be made from nominations from state labor federations. Business appointments shall be made from nominations from state business organizations and business trade associations.
- (5) The Governor shall designate a member to chair the panel, and the person so designated shall serve as the chair of the panel at the pleasure of the Governor.
- (c) The appointive members of the panel shall serve for two-year terms, except that of the initial members of the panel, one initial appointee of each appointing power shall serve for a one-year term.
- (d) Appointive members of the panel shall receive the necessary traveling and other expenses incurred by them in the performance of their official duties out of appropriations made for the support of the panel. In addition, each appointive member of the panel shall receive one hundred dollars (\$100) for each day attending meetings of the panel, and may receive one hundred dollars (\$100) for each day spent conducting other official business of the panel, but not exceeding a maximum of three hundred dollars (\$300) per month.

10203. The panel may meet as necessary at locations throughout the state. The panel shall maintain a minimum of three regional offices. The central office shall be located in Sacramento, two regional offices shall be located in the southern part of the state, and one regional office shall be located in the northern part of the state.

The executive director will assign one person, with experience in meeting the needs of small businesses, to each of the regional offices for the purpose of developing training projects for small businesses and expediting the processing of training proposals from small businesses.

10204. (a) The panel shall coordinate its programs with local and state partners of the federal Workforce Investment Act of 1998. This coordination shall include, but not be limited to, the adoption of a plan, including regular sharing of data, for the coordination of training authorized pursuant to this Chapter with programs administered under Division 8 (commencing with Section 15000).
- (b) For purposes of serving the needs of small business, the panel may delegate its authority to approve contracts for new hire training to any entity defined in paragraphs (3) and (4) of subdivision (c) of Section 10205, provided the following conditions are met:
- (1) The panel determines that an entity to which it is delegating this authority meets the same standards as required of training agencies in Section 10210.
 - (2) The panel delegates its authority pursuant to this Section by a contract with the entity which limits the total amount of Employment Training Fund funds which are available to the entity, specifies a time limit within which those funds shall either be allocated or returned to the Panel, specifies the reasonable administrative costs to be allowed in administering the contract, and provides that no subcontract approved by the entity shall exceed fifty thousand dollars (\$50,000) per project without prior approval by the panel.
 - (3) The subcontracts with employers and training agencies approved by the workforce investment board entity shall be for new hire training only and shall meet all the requirements of this Chapter and the policies established by the Panel.

10205. The panel shall do all of the following:

- (a) Establish a three-year plan that shall be updated annually, based on the demand of employers for trained workers, changes in the state's economy and labor markets, and continuous reviews of the effectiveness of panel training contracts. The initial three-year plan shall be submitted to the Governor and the Legislature not later than January 1, 1994. The initial update of the plan shall be submitted not later than July 1, 1994, and annual updates of the plan thereafter shall be submitted not later than July 1 of each year. In carrying out this section, the panel shall review information in the following areas:
 - (1) Labor market information, including the state-local labor market information program in the Employment Development Department, and economic forecasts.

- (2) Evaluations of the effectiveness of training as measured by increased security of employment for workers and benefits to the California economy.
 - (3) The demand for training by industry, type of training, and size of employer.
 - (4) Changes in skills necessary to perform jobs, including changes in basic literacy skills.
 - (5) Changes in the demographics of the labor force and the population entering the labor market.
 - (6) Proposed expenditures by other agencies of federal Workforce Investment Act funds and other state and federal training and vocational education funds on eligible participants.
- (b) Maintain a system to continuously monitor economic and other data required under this plan. If this data changes significantly during the life of the plan, the plan shall be amended by the panel. Each plan shall include all of the following:
- (1) The panel's objectives with respect to the criteria and priorities specified in Section 10200 and the distribution of funds between new-hire training and retraining.
 - (2) The identification of specific industries, production and quality control techniques, and regions of the state where employment training funds would most benefit the state's economy and plans to encourage training in these areas, including specific standards and a system for expedited review of proposals that meet the standards.
 - (3) A system for expedited review of proposals that are substantially similar with respect to employer needs, training curriculum, duration of training, and costs of training, in order to encourage the development of proposals that meet the needs identified in paragraph (2).
 - (4) The panel's goals, operational objectives, and strategies to meet the needs of small businesses including, but not limited to, those small businesses with 100 or fewer employees. These strategies proposed by the panel may include, but not be limited to, pilot demonstration projects designed to identify potential barriers that small businesses may experience in accessing panel programs and workforce training resources, including barriers that may exist within small businesses.
 - (5) The research objectives of the panel that contribute to the effectiveness of this chapter in benefiting the economy of the state as a whole.

- (6) A priority list of skills that are in such short supply that employers are choosing to not locate or expand their businesses in the state or are importing labor in response to these skills shortages.
- (c) Solicit proposals and write contracts on the basis of proposals made directly to it. Contracts for the purpose of providing employment training may be written with any of the following:
 - (1) An employer or group of employers.
 - (2) A training agency.
 - (3) A local workforce investment board with the approval of the appropriate local elected officials in the local workforce investment area.
 - (4) A grant recipient or administrative entity selected pursuant to the federal Workforce Investment Act of 1998, with the approval of the local workforce investment board and the appropriate local elected officials.

These contracts shall be in the form of fixed-fee performance contracts. Notwithstanding any provision of law to the contrary, contracts entered into pursuant to this chapter shall not be subject to competitive bidding procedures. Contracts for training may be written for a period not to exceed 24 months for the purpose of administration by the panel and the contracting employer or any group of employers acting jointly or any training agency for the purpose of providing employment training.

- (d) Fund training projects that best meet the priorities identified annually. In doing so, the panel shall seek to facilitate the employment of the maximum number of eligible participants.
- (e) Establish minimum standards for the consideration of proposals, which shall include, but not be limited to, the identification of employers who have been contacted by the contractor and who have provided reasonable assurance that they will employ successful trainees, the number of jobs available, the skill requirements for the identified jobs, the projected cost per person trained, hired, and retained in employment, the wages paid successful trainees upon placement, and the curriculum for the training. No proposal shall be considered or approved that proposes training for employment covered by a collective bargaining agreement unless the signatory labor organization agrees in writing.
- (f) Develop a process by which local workforce investment boards may apply for marketing resources for the purpose of identifying local employers that have training needs that reflect the priorities of the panel. The panel may delegate its authority to approve contracts for training to local workforce investment boards, provided that no

contract approved exceeds fifty thousand dollars (\$50,000) per project without prior approval of the panel and all contracts meet the provisions of this chapter and are consistent with the annual priorities identified by the panel.

- (g) Ensure the provision of adequate fiscal and accounting controls for, monitoring and auditing of, and other appropriate technical and administrative assistance to, projects funded by this chapter.
- (h) Provide for evaluation of projects funded by this chapter. The evaluations shall assess the effectiveness of training previously funded by the panel to improve job security and stability for workers, and benefit participating employers and the state's economy, and shall compare the wages of trainees in the 12-month period prior to training as well as the 12-month period subsequent to completion of training, as reflected in the department's unemployment insurance tax records. Individual project evaluations shall contain a summary description of the project, the number of persons entering training, the number of persons completing training, the number of persons employed at the end of the project, the number of persons still employed three months after the end of the project, the wages paid, the total costs of the project, and the total reimbursement received from the Employment Training Fund.
- (i) Report annually to the Legislature, by November 30, on projects operating during the previous state fiscal year. These annual reports shall provide separate summaries of all of the following:
 - (1) Projects completed during the year, including their individual and aggregate performance and cost.
 - (2) Projects not completed during the year, briefly describing each project and identifying approved contract amounts by contract and for this category as a whole, and identifying any projects in which funds are expected to be disencumbered.
 - (3) Projects terminated prior to completion and the reasons for the termination.
 - (4) A description of the amount, type, and effectiveness of literacy training funded by the panel.
 - (5) Results of complete project evaluations.
 - (6) A description of pilot projects, and the strategies that were identified through these projects, to increase access by small businesses to panel training contracts.
 - (7) A listing of training projects that were funded in high unemployment areas and a detailed description of the policies and procedures that

were used to designate geographic regions and municipalities as high unemployment areas.

In addition, based upon its experience administering job training projects, the panel shall include in these reports policy recommendations concerning the impact of job training and the panel's program on economic development, labor-management relations, employment security, and other related issues.

- (j) Conduct ongoing reviews of panel policies with the goal of developing an improved process for developing, funding, and implementing panel contracts as described in this chapter.
 - (k) Expedite the processing of contracts for firms considering locating or expanding businesses in the state, as determined by the Technology, Trade, and Commerce Agency, in accordance with the priorities for employment training programs set forth in subdivision (b) of Section 10200.
 - (l) Coordinate and consult regularly with business groups and labor organizations, the California Workforce Investment Board, the State Department of Education, the office of the Chancellor of the California Community Colleges, the Employment Development Department, and the Technology, Trade, and Commerce Agency.
 - (m) Adopt by regulation procedures for the conduct of panel business, including the scheduling and conduct of meetings, the review of proposals, the disclosure of contacts between panel members and parties at interest concerning particular proposals, contracts or cases before the panel or its staff, the awarding of contracts, the administration of contracts, and the payment of amounts due to contractors. All decisions by the panel shall be made by resolution of the panel and any adverse decision shall include a statement of the reason for the decision.
 - (n) Adopt regulations and procedures providing reasonable confidentiality for the proprietary information of employers seeking training funds from the panel if the public disclosure of that information would result in an unfair competitive disadvantage to the employer supplying the information. The panel may not withhold information from the public regarding its operations, procedures, and decisions that would otherwise be subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).
 - (o) Review and comment on the budget and performance of any program, project, or activity funded by the panel utilizing funds collected pursuant to Section 976.6.
10206. (a) The panel may allocate money in the fund for any of the following purposes:
- (1) Reimbursement of reasonable training costs, and administrative costs incurred by contractors. In making a determination of costs to be reimbursed

under this paragraph, the panel may allocate funds in accordance with any of the following methods:

- (A) For purposes of providing simplified fixed-fee performance contracts, a flat rate per hour for categories of training that are substantially similar with respect to content, methodology, and duration, as determined by the panel, not to exceed the reasonable and normal costs for the training. The panel shall periodically adjust the standardized rates established pursuant to this paragraph to reflect changes in training costs.
 - (B) A complete review of the proposal and its costs, including a budget listing the planned costs of training, including personnel, fringe benefits, equipment, supplies, fees for consulting or administrative services, and other costs attributable to training; the services provided by subcontractors; the length and complexity of the training; the method of training; the wages and occupations following training; whether the trainees are new hires or retrainees; and the cost of similar training that the panel has funded previously. The cost of administration shall not exceed 15 percent of the training costs under this paragraph, except that for new hire training the panel may fund administrative costs of up to 25 percent of the training cost.
 - (C) The panel may modify the specific requirements of this paragraph as they apply to employers or contractors proposing projects that involve training for a significant number of small employers in the same project.
 - (D) A contractor is prohibited from utilizing any funds earned or paid as advances or progress payments for the purpose of making payments to any other individual or entity, either directly or indirectly, for costs incurred as a finder's fee or for other compensation related to the predevelopment or development phase of a training program, which is based on a percentage of the preliminary or final panel award to the contractor for the training project.
- (2)
- (A) Costs of program administration incurred under this chapter. These costs shall be reviewed annually by the Department of Finance and the Legislature and determined through the normal budgetary process.
 - (B) The panel's administrative costs, exclusive of the cost of administering Section 976.6, shall not exceed 15 percent of the total amount annually appropriated for expenditure by the panel. Expenditures for marketing, research, and evaluations provided under

the contract to the panel that otherwise would have been provided directly by the panel shall not be included in this limitation.

- (3) Service related to the purposes of this chapter provided by the Small Business Development Centers pursuant to an interagency agreement with the Trade and Commerce Agency.
 - (b) For all training contracts, the panel shall establish requirements for in-kind contributions by either the contractor or the employer that reflect a substantial commitment on the part of the contractor or the employer to the value of the training. In developing these requirements, the panel shall take into account the ability of the contractor or the employer, because of size or financial condition, to make any contribution, and the ability of the Employment Training Fund to meet the demand for training authorized by this chapter. In developing policies regarding in-kind contributions, the panel shall hold public hearings.
10207. (a) The panel shall accept or reject a completed application within 60 days of the receipt by the executive director.
- (b) The panel shall develop expedited procedures for reviewing proposals submitted by State agencies which are participants in a special interagency agreement with the panel for purposes of this Chapter.
10208. Nothing in this chapter shall be construed to preclude any employer from contracting with any public or private training entity for services, subject to the approval of the panel.
10209. (a) Contracts shall only be made for training in job-related vocational skills that are necessary for participants to attain a new job or retain an existing job with definite career potential and long-term job security. The contracts for vocational skills training may include ancillary training for job-related basic and literacy skills training if the panel finds that the training is necessary to achieve the objectives of the vocational training.
- (b) Contracts for projects involving on-the-job training shall specify skills and competencies to be gained as a result of the on-the-job training component of the project.
- (c) The panel shall not approve any training proposal which facilitates the change in ownership of a business leading to the likelihood that an existing collective bargaining agreement would be declared void.
- (d) To encourage a broad and equitable distribution of funds, the panel may require an employer who has previously received funds pursuant to this chapter for retraining of workers at a facility to contribute proportionately more to the cost of training of workers at the same facility.

- (e) The panel may delegate to the executive director the authority to approve training contracts of up to one hundred thousand dollars (\$100,000), provided the contracts meet the requirements of this chapter and the policies established by the panel, and provided that the panel regularly reviews the action taken by the executive director pursuant to this subdivision.
- (f) Payments shall be made in accordance with a performance contract under which partial payments may be made during training, a partial payment may be made on placement or retention of each trainee, and not less than 25 percent of the negotiated fee is withheld until the trainee has been retained in employment for 90 days after the end of training with a single employer, except for those occupations in which it is not customary for a worker to be employed 90 consecutive days with a single employer. In these latter cases, the panel may substitute a period similar to the probationary period customary to the occupation. The probationary period shall not be less than 500 work hours and shall be completed within 272 days of the completion of the training. In no case shall any payment be considered to have been earned until the trainee has been retained in employment for 90 days or the equivalent probationary period for an occupation in which it is not customary for a worker to be employed 90 consecutive days with a single employer.
- (g) Contracts for new hire training shall require the contractor to provide the placement services necessary to ensure the trainees are placed in jobs for which they have been trained.

10210. Contracts shall be made with training agencies only if the training agency can demonstrate all of the following:

- (a) The training agency has a satisfactory record of past performance in the placement and retention of former trainees and employer satisfaction with former trainees.
- (b) The training agency can demonstrate labor market demand for the proposed training. Proof shall include, but not be limited to, the documented need of specific employers for the workers proposed to be trained in the skills proposed by the training agency.
- (c) The training agency can demonstrate that the training prepares trainees in a manner satisfactory to employers.
- (d) The training agency can demonstrate that its accounting systems include controls adequate to check the accuracy and reliability of accounting data, promote operating efficiency, and assure compliance with government requirements and generally accepted accounting principles. The panel shall have full access at any time to these accounting systems to assure compliance with these standards.

10211. A trainee or employee participating in a training program pursuant to this chapter shall be considered to be in a training program having the approval of the director under Article 1.5 (commencing with Section 1266) of Chapter 5 of Part 1 of Division 1.

10212.2 (a) The panel shall prepare a budget covering necessary administrative costs of the panel. The budget shall not be subject to change by the director except as agreed to by the panel. In the event that agreement cannot be reached, the Secretary of the California Health and Human Services Agency shall attempt to reach a mutual agreement. In the event a mutual agreement cannot be reached, the final decision shall rest with the Governor.

(b) The director shall furnish at the request of the panel equipment, supplies, and housing unless specified otherwise in this code, and non-personal and housekeeping services required by the panel and shall perform any other mechanics of administration as the panel and the director may agree upon.

10213. The Employment Development Department shall cooperate with the panel by offering necessary technical assistance, which may include, but is not limited to, labor market information, projections of occupational demand, and information and advice on alternative training strategies.

10213.5.(a) The Trade and Commerce Agency shall determine those firms considering locating or expanding businesses in the state in order to enable the Employment Training Panel to expedite the processing of contracts for these firms pursuant to subdivision (d) of Section 10205. The Trade and Commerce Agency shall also provide technical assistance by marketing the Employment Training Fund to newly locating or expanding businesses in the state and by assisting in the packaging of employer contracts for training of eligible participants from the Employment Training Fund.

(b) The Small Business Development Center program in the Office of Small Business in the Trade and Commerce Agency shall provide information and applications for funding by the panel to its clients.

10214. To assist the panel and the Legislature in assessing the impact of this chapter over an extended period of time, the Employment Development Department shall develop and maintain a continuous employment, wage, and benefit history of participants in projects authorized pursuant to this chapter and of a random sample of unemployment insurance claimants. The design of this history shall be subject to the review and approval of the panel and the review and recommendations of the Legislative Analyst.

10214.5 (a) The panel may allocate up to 10 percent of the annually available training funds for the purpose of funding special employment training projects that improve the skills and employment security of frontline workers, as defined in subdivision (a) of Section 10200. Notwithstanding any other provision of this chapter, participants in these projects are not required to meet eligibility criteria set forth in paragraph (1) of subdivision (a) of Section 10200 or subdivision (c) of Section 10201.

- (b) The panel shall, on an annual basis, identify industries and occupations that shall be priorities for funding under this section. Training shall be targeted to frontline workers who earn at least the state average weekly wage.
- (c) The panel may waive the minimum wage provisions pursuant to subdivision (f) of Section 10201 for projects in regions of that state where the unemployment rate is significantly higher than the state average, and may waive the employment retention provisions specified in subdivision (f) of Section 10209 and instead require that the trainee has been retained in employment for a minimum of 90 days out of 120 consecutive days after the end of training with no more than three employers.
- (d) The panel shall adopt minimum standards for consideration of proposals to be funded pursuant to this section.
- (e) The panel may select contracts funded under this section based on competitive bidding.
- (f) It is the intent of the Legislature in providing the authority for these projects that the panel allocate these funds in a manner consistent with the objectives of this chapter as proved in Section 10200.

10214.7. The panel shall allocate funds available in the annual Budget Act for training programs designed for individuals who are currently working and receiving benefits under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code or who are currently working and have received CalWORKs benefits within one year of the commencement of the training program.

- (a) It is the intent of the Legislature in providing authority for these training programs that the panel allocate these funds in a manner consistent with the objectives of this chapter as provided in Section 10200.
- (b) Notwithstanding any other provisions of this chapter, the eligibility criteria for individuals trained under this section shall be employment with an eligible employer as defined in subdivision (b) of Section 10201 and:
 - (1) Receipt of CalWORKs benefits at the time training begins, or
 - (2) Receipt of CalWORKs benefits within one year of the time training commenced.
- (c) For purposes of this section, the panel may waive, if necessary, any of the following:
 - (1) The employer eligibility criteria outlined in paragraph (1) of subdivision (a) of Section 10200.

- (2) The minimum training wage requirements pursuant to subdivision (f) of Section 10201.
- (3) The employment retention provisions specified in subdivision (f) of Section 10209 and instead require that the trainee has been retained in employment for a minimum of 90 days out of 120 consecutive days after the end of training with no more than three employers.
- (d) Notwithstanding any other provisions of this chapter, the panel shall consider proposals that use innovative strategies and training options to enable current and prior CalWORKs recipients and eligibles to retain employment, including, but not limited to, projects that provide basic skills training.
- (e) The panel shall adopt administrative procedures for approving and administering contracts under this section to expedite contracts, minimize barriers to completion of training, and facilitate the training of single trainees and small groups of trainees from one worksite.

10214.9. (a) (1) The panel may fund up to five licensed nurse training programs to train individuals who are currently working as nurse assistants or caregivers in a health facility, as defined in Section 1250 of the Health and Safety Code.

(2) It is the intent of the Legislature that the panel allocate these funds in a manner consistent with the objectives of this chapter as provided in Section 10200.

(b) Notwithstanding any other provisions of this chapter, the panel shall waive the minimum wage provisions, pursuant to subdivision (f) of Section 10201, if all of the following conditions are met:

(1) The employee is enrolled in an approved licensed nurse training program that consists of not less than 1,000 hours of training.

(2) The employer pays the employee not less than 120 percent of the state minimum wage for not less than the first 20 hours of work per week during each week the employee is enrolled in the training program.

(3) Each program results in full-time employment customary for the occupation for which the individuals are being trained.

(c) Notwithstanding any other provisions of this chapter, the panel shall waive any limitation on the hourly length of training programs to allow approval and funding of up to 750 hours of a licensed nurse training program; provided, however, that those funds be used to pay for up to 750 training hours that remain in the licensed nurse training program after the employee has completed the first 800 hours of that program.

(d) Notwithstanding any other provisions of this chapter, employers that participate in the nurse training programs funded pursuant to this section, are not required to meet the eligibility criteria set forth in paragraph (1) of subdivision (a) of Section 10200.

10215. The funding of individual project grants by the panel may take the form of either direct grants to the employer or training agency, or credits to the employer's liability for unemployment insurance contributions or reimbursements. Credits to the employer's liability for unemployment insurance contributions or reimbursements shall be drawn from the Employment Training Fund.

10217. Funds in the Employment Training Fund created by Section 1610 shall be appropriated annually in the Budget Act by the Legislature for allocation by the panel for the purposes of this chapter, except those funds determined by the Legislature to be necessary to administer Section 976.6 and Article 6 (commencing with Section 1610) of Chapter 6 of Part 1 of Division 1 shall be appropriated to the department.

Supplemental References to ETP Legislation

Division 1, Part 1, Chapter 4, Article 3 of the Unemployment Insurance (UI) Code:

976.6. In addition to other contributions required by this division, every employer, except an employer defined by Section 676, 684, or 685, and except an employer that has elected an alternate method of financing its liability for unemployment compensation benefits pursuant to Article 5 (commencing with Section 801), or Article 6 (commencing with Section 821) of Chapter 3, shall pay into the Employment Training Fund contributions at the rate of 0.1 percent of wages specified in Section 930. The contributions shall be collected in the same manner and at the same time as any contributions required under Sections 977 and 977.5.

Division 1, Part 1, Chapter 6, Article 6 of the UI Code

1610. There is in the State Treasury a special fund known as the Employment Training Fund. There shall be deposited in or transferred to this fund all contributions collected from employers pursuant to Section 976.6. Costs incurred for the purposes specified in Section 1611 in fiscal year 1982-83 shall be reimbursed and thereafter shall be annually appropriated by the Legislature from the Employment Training Fund.

1611. Money in the Employment Training Fund shall be expended only for the purposes of Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3, and for the costs of administering this article and Section 976.6, except:

- (a) With the approval of the Legislature, the fund or contributions to it may be used to pay interest charged on federal loans to the Unemployment Fund.
- (b) Commencing with allocations made to the Employment Training Panel in the 1992-93 fiscal year, any moneys allocated to the panel in a fiscal year that are not encumbered by the panel in that fiscal year, shall revert to the Unemployment Insurance Fund.
- (c) It is the intent of the Legislature that the panel shall closely monitor program performance and expenditures for employment training programs administered by the panel, and that the panel shall expeditiously disencumber funds that are not needed for employment training program completion. Commencing with the 1992-93 fiscal year, those moneys that are disencumbered during the fiscal year that are not re-encumbered during the same fiscal year shall revert to the Unemployment Insurance Fund.

1611.5 Notwithstanding Section 1611, the Legislature may appropriate from the Employment Training Fund forty-three million four hundred ninety-nine thousand dollars (\$43,499,000) in the Budget Act of 2005 to fund the local assistance portion of welfare-to-work activities under the CalWORKs program, provided for pursuant to Article 3.2 (commencing with

Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, as administered by the State Department of Social Services.

The 2005-06 Budget Act, Chapter 38

7100-001-0514—For support of Employment Development Department, for payment to Item 7100-001-0870, payable from the Employment Training Fund\$43,499,000

Provisions:

1. Upon order of the Director of Finance, funds disencumbered from Employment Training Fund training contracts during the 2005–06 fiscal year that have not reverted as of July 1, 2005, may be appropriated in augmentation of this item.
2. Notwithstanding subparagraph (B) of paragraph (2) of subdivision (a) of Section 10206 of the Unemployment Insurance Code, the Employment Training Panel’s administrative costs may exceed 15 percent of the amount appropriated in this item.

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